



IT IS ORDERED as set forth below:

Date: July 31, 2017

**Paul W. Bonapfel
U.S. Bankruptcy Court Judge**

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:

Jessie Hayes
Marqavaion Moore
Shelton Owens
Travis Tegner
Wendell Stepp

Debtors.

CASE NO. 17-52318-pwb
CASE NO. 17-52406-pwb
CASE NO. 17-52410-pwb
CASE NO. 17-52418-pwb
CASE NO. 17-52420-pwb

CHAPTER 7

**ORDER ON RUBEN HAUWANGA'S OBJECTIONS TO CONDUCT OF RULE 2004
EXAMINATION & REQUEST FOR PAYMENT AS PROVIDED BY LAW**

Reuben Hauwanga, a bankruptcy petition preparer, prepared the petitions in these five Chapter 7 cases. The petitions were filed between on February 6, 2017, and February 7, 2016.

The Debtor in each case filed a Form 119 (Bankruptcy Petition Preparer's Notice, Declaration, and Signature) indicating Mr. Hauwanga prepared numerous documents that were never filed with the Court. Additionally, on February 14, 2017, the Debtor in each case filed a Motion to Withdraw Case. Except for the Debtors' names and case numbers, the motions are identical.

On March 16, 2017, the United States Trustee filed in each case a Motion for Rule 2004 Examination of Ruben S. Hauwanga. As alleged in the Motion, “[I]t appears Mr. Hauwanga did not prepare and deliver all of the documents he was paid to prepare, as indicated in the Forms 119 filed in these cases,” and “it seems likely that Mr. Hauwanga prepared the ‘Motion to Withdraw Case’ filed in each case or has information concerning the preparation of the document.” The stated purpose for the Bankruptcy Rule 2004 examination was “to inquire about the circumstances surrounding the filing of these petitions and bankruptcy assistance provided and fees charged in and in connection with these cases.”

The Court granted each motion on March 17, 2017. The orders granting the motions scheduled and noticed an initial examination date for April 10, 2017, at 10:00 AM. Mr. Hauwanga, however, did not appear for that examination. The examination was rescheduled and renoticed for April 27, 2017, at 10:00 AM. Mr. Hauwanga failed to appear for that examination, as well. The examination was rescheduled and renoticed for May 22, 2017, at 1:00 PM. Mr. Hauwanga appeared as scheduled and was examined.

On June 2, 2017, Mr. Hauwanga filed Objections to Conduct of Rule 2004 Examination and Request for Payment as Provided by Law (“Objections & Request for Payment”). Mr. Hauwanga objects, essentially, to every question he was asked at the examination as exceeding the scope of Bankruptcy Rule 2004(b), which states that examinations “may relate only to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge.” Mr. Hauwanga also requests payment of the mileage and witness fee provided for in Bankruptcy Rule 2004(e) and 28 U.S.C. § 1821.

OBJECTIONS TO CONDUCT OF RULE 2004 EXAMINATION

Mr. Hauwanga states that the United States Trustee’s attorney “inquired only into matters relating to Hauwanga, such as ... Hauwanga’s highest level of education, and from which university, where Hauwanga met the individual debtors ..., but at no time during the entire examination did [the United States Trustee’s attorney] inquire into any ‘acts, conduct, or

property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge' of any of the debtors." Objections & Request for Payment ¶ 5.

Mr. Hauwanga acknowledges, however, that he answered the questions put to him at the examination, *see* Objections & Request for Payment ¶ 3, and nothing in the Objections & Request for Payment indicates Mr. Hauwanga voiced any objections during the examination.

To the extent Mr. Hauwanga has any objection to any particular question he answered at the examination without objection, he waived it. Moreover, any such objection is now moot.

To the extent Mr. Hauwanga objects more broadly to the use of Bankruptcy Rule 2004(b) to inquire into the fees Mr. Hauwanga charged and into the assistance he provided to the Debtors, the Court overrules the objection. Bankruptcy Rule 2004(b) allows examination broadly as "to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge." The fees Mr. Hauwanga charged and the assistance he provided to the Debtors may affect the administration of each Debtor's estate. *See, e.g., In re Smith*, No. 10-01115, 2010 WL 5420264, at *1 (Bankr. D.D.C. Dec. 23, 2010) ("Rule 2004 authorizes, among other things, the examination of an entity relating to 'any matter which may affect the administration of the debtor's estate' Rule 2004(b). Ms. Butler [the petition preparer] is an entity whose assistance in the filing of this case may affect the administration of the estate, and the examination of Ms. Butler called for under the United States Trustee's subpoena thus falls within the permissible scope of a Rule 2004 examination.").

REQUEST FOR PAYMENT OF MILEAGE AND ATTENDANCE FEE

Bankruptcy Rule 2004(e) states, in part, "An entity other than a debtor shall not be required to attend as a witness unless lawful mileage and witness fee for one day's attendance shall be first tendered." Lawful mileage and witness attendance fee are prescribed by 28 U.S.C. § 1821.

The Court will give the United States Trustee an opportunity to respond to Mr. Hauwanga's request for mileage and an attendance fee.

It is hereby

ORDERED that the Court *overrules* Mr. Hauwanga's objections. It is further

ORDERED that by Friday, August 18, 2017, the United States Trustee shall respond to Mr. Hauwanga's request for payment of mileage and witness attendance fee.

END OF ORDER

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